

REMARKS

Entry of the foregoing and reconsideration of the application identified in caption as amended, pursuant to and consistent with the Rules of Practice in Patent Cases, and in light of the remarks which follow, is respectfully requested.

By the present amendment, claims 2, 4, 9, and 11 have been amended and claims 1, 5-8, and 12 have been deleted, so that claims 2-4 and 9-11 will be pending upon entry of the present amendment.

Claims 5-8 have been deleted as being directed to a non-elected invention.

Claims 9 and 11 have been amended and rewritten in independent form to include the subject matter of deleted claim 1.

Claims 2-3 stand objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 2 has been amended and rewritten in independent form to include all the limitations of claim 1. Support for the amendments to claim 2 can be found in the specification at least at page 4, lines 3-6. Claim 4 has been amended to depend from claim 2 and is accordingly allowable. Allowance of claims 2-4 is respectfully requested.

The rejections of Claim 1 and Claims 1, 4, and 12 in view of US 2003/0118539 to Fahl, et al. are rendered moot in view of the cancellation of claims 1 and 12. Claim 4 has been amended to depend from allowable claim 2, as noted above.

Claims 1, 4, and 9-11, now represented by claims 9-11, stand rejected under 35 U.S.C. 102(b) as anticipated by Dietary supplements marketed in Italy. This rejection is respectfully traversed.

Applicants submit that claims 9-11 are not anticipated by Dietary supplements marketed in Italy in 1992, namely, Bioscalin since identification of a product name is not an adequate disclosure of each and every element of the claimed invention. There is no identification of the components in the 1992 product. Reference to the brand name of a product in a later 2002 publication is not sufficient to establish the components of the earlier 1992 product. As recognized by the USPTO, a trademark or trade name cannot be used properly to identify any particular material or product. The formula or characteristics of the product may change from time to time and yet it may continue to be sold under the same trademark. A trademark or trade name is used to identify a source of goods, and not the

goods themselves. Thus, a trademark or trade name does not identify or describe the goods associated with the trademark or trade name. See MPEP 608.01(v), 706.03(d).

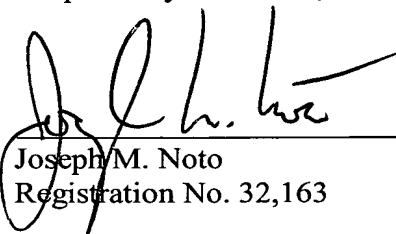
Moreover, Applicants believe that the composition of Bioscalin was changed to contained spermidine only after the present application was filed.

Accordingly, withdrawal of the record rejection and allowance of claims 9-11 is respectfully requested.

From the foregoing, further and favorable action in the form of a Notice of Allowance is believed to be next in order, and such action is hereby earnestly solicited.

Respectfully submitted,

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June 2, 2006
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